

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Rafael Calisto Morales,	)	Case No. 5:23-cv-04213-DCC
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Warden Joseph,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the Court on Petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation (“Report”). On October 17, 2023, the Magistrate Judge issued a Report recommending that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with an order of this Court. ECF No. 16. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences for failing to do so. Petitioner has not filed objections to the Report and the time to do so has lapsed.<sup>1</sup>

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<sup>1</sup> The Court notes that the proper form order and the Report have been returned as undeliverable. As noted by the Magistrate Judge and confirmed by the undersigned, it appears that Petitioner was released from the Bureau of Prisons. As he has not updated his address or had any communication with the Court beyond his initial petition, there is no way for the Court to contact him about this action.

**APPLICABLE LAW AND ANALYSIS**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

As noted above, Petitioner did not file objections to the Report. Upon review for clear error, the Court agrees with the recommendation of the Magistrate Judge. This action is **DISMISSED** without prejudice pursuant to Rule 41(b).

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

December 4, 2023  
Spartanburg, South Carolina